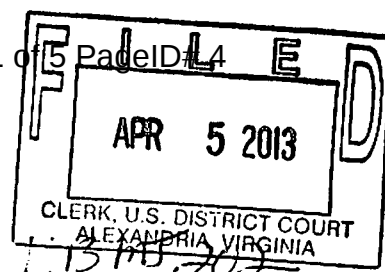


Prob 12
(Mod. For E.VA 10/09)

**UNITED STATES DISTRICT COURT
for the
EASTERN DISTRICT OF VIRGINIA**



U.S.A. vs. David M. Gauer Docket No. CIT 3329127

Petition on Probation

COMES NOW Daniel D. Gillespie, Jr., PROBATION OFFICER OF THE COURT, presenting an official report upon the conduct and attitude of David M. Gauer, who was placed on supervision by the Honorable Thomas Rawles Jones, Jr. sitting in the Court at Alexandria, Virginia, on the 17th day of April, 2012, who fixed the period of supervision at one (1) year, and imposed the general terms and conditions heretofore adopted by the Court and also imposed special conditions and terms as follows:

See page 2.

RESPECTFULLY PRESENTING PETITION FOR ACTION OF COURT FOR CAUSE AS FOLLOWS:
See Attachment(s)

PRAYING THAT THE COURT WILL ORDER a summons to be issued directing that the offender appear before the Court to show cause why supervision should not be revoked.

RETURNABLE DATE: _____

ORDER OF COURT

Considered and ordered this 3rd day of April, 2013 and ordered filed and made a part of the records in the above case.

/s/Thomas Rawles Jones, Jr.
Thomas Rawles Jones, Jr.
United States Magistrate Judge

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 3, 2013
Daniel D. Gillespie, Jr.
Daniel D. Gillespie, Jr.
U.S. Probation Officer
703-299-2285

Place Alexandria, Virginia

TO CLERK'S OFFICE

Petition on Probation

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RE: GAUER, David M.

SPECIAL CONDITIONS:

1. The defendant shall enter and successfully complete an alcohol education program as directed;
2. The defendant shall not operate a motor vehicle anywhere in the United States for a period of one (1) year except: (a) to, from and as directly required by the defendant's employment, (b) to and from the probation office, (c) to and from the alcohol program, and (d) to and from this court;
3. The defendant shall not violate any local, state or federal traffic law; and
4. The defendant shall pay a \$200.00 fine, a \$25.00 processing fee, and a \$10.00 special assessment within 90 days.

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RE: GAUER, David M.

OFFENSE: Driving While Intoxicated with a BAC of .08% or More.

SENTENCE: One (1) year term of supervised probation with the special conditions as listed on page 2.

ADJUSTMENT TO SUPERVISION: As of this writing, the defendant had almost completed the term of supervised probation prior to being re-arrested on March 26, 2013, for a new alcohol related traffic offense. As such, the defendant's adjustment to supervision appears unsatisfactory at this time.

The defendant entered and successfully completed the Fairfax Alcohol Safety Action (ASAP) during the term of supervision. On May 8, 2012, he was assessed by ASAP as needing intensive education services. Mr. Gauer began classes on June 18, 2012, with a successful program completion on September 12, 2012.

On April 20, 2012, the defendant paid all monetary obligations in full.

The defendant has remained without a valid operator's license during the period of supervision due to outstanding traffic fines in the State of Hawaii. The defendant is in the process of paying the outstanding fines in order to be able to obtain a valid driver's license in the State of Virginia.

VIOLATIONS: The following violations are submitted for the Court's consideration.

STANDARD CONDITION 1: INCURRING A NEW LAW VIOLATION WHILE ON PROBATION.

SPECIAL CONDITION 3: VIOLATION OF A FEDERAL TRAFFIC LAW WHILE ON PROBATION.

STANDARD CONDITION 8: EXCESSIVE USE OF ALCOHOL.

According to information received from a U.S. Park Police incident record, on or about March 26, 2013, at approximately 0056 hours, U.S. Park Police Officer Ferstl initiated a traffic stop on a silver Jeep Wrangler operated by a male subject identified as the defendant. The vehicle was reported to have been traveling in the southbound lanes of the George Washington Memorial Parkway at a high rate of speed, and had been observed crossing the center divider line on several occasions.

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RE: GAUER, David M.

The report indicates, the officer requested the defendant's license and registration, at which time the defendant was unable to produce the documents. The defendant did produce an insurance letter indicating the vehicle was registered to his girlfriend, Sheena Eldred. The defendant further advised the officer he had a Maryland driver's license.

During the contact the officer noticed the defendant would not make eye contact with him and noted a weak odor of alcohol. The officer further indicated he observed that the defendant's eyes were red, bloodshot, and watery, and that his speech was slurred at times. The defendant was asked if he had been drinking, at which time he stated he had a beer while at a friend's residence.

A records check conducted by the officer revealed that the defendant did not have a valid driver's license, and further indicated that the defendant was on supervised probation in the Eastern District for Driving While Intoxicated. After this information was revealed the defendant provided the officer with a Virginia identification card.

The defendant was then asked to exit the vehicle in order to perform field sobriety tests. The defendant was unsuccessful in performing the tests. In addition, the defendant voluntarily submitted to a breath (RBT) test which had a positive initial result of 0.151 BAC. The defendant was again asked how many alcoholic beverages he had consumed, at which time he replied approximately seven (7) beers.

The defendant was then asked if his driving restriction in his current supervised probation case only allowed him to operate a motor vehicle to and from work, to which the defendant responded in the affirmative.

The defendant was then placed under arrest for Driving Under the Influence of Alcohol and transported to U.S. Park Police District Two for processing. During processing the defendant was advised of his Miranda Rights, which he waived, elected to answer questions, and reiterated the information he provided on the scene. Two (2) additional breath tests were conducted during processing with positive results of 0.138 BAC at 0252 hours and 0.140 BAC at 0257 hours.

The incident report further indicated a search of the vehicle revealed six (6) rounds of .270 Winchester caliber rifle ammunition located in the center console. The ammunition was confiscated and placed in a property locker for destruction.

The defendant was issued U.S. District Court Violation Notices for Driving While Intoxicated With A BAC of .08 or More (CIT 3894938), Driving Under the Influence of Alcohol and/or Drugs (CIT 3894937),

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RE: GAUER, David M.

Violation of License Restriction (CIT 3894940), Failure to Stay in One Lane (CIT 3894936), and No Operator's License (CIT 3894939) with a mandatory court appearance of April 9, 2013.

**SPECIAL CONDITON 2: FAILURE TO COMPLY WITH THE COURT ORDERED
DRIVING RESTRICTION.**

The defendant appears to have been operating a motor vehicle outside of the court ordered restriction on or about March 26, 2013, when cited by the U.S. Park Police for the above listed traffic offenses.

DDG/mbp

